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10/777,052	02/09/2004	Meghan M. Barni		3905

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EXAMINER

VAN DOREN, BETH

ART UNIT	PAPER NUMBER
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3623

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/777,052	Applicant(s) BARNI, MEGHAN M.	
	Examiner BETH VAN DOREN	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a non-final, first office action on the merits. Claims 1-17 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 6, 8, 9, and 11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Dellevi et al. (U.S. 6,695,188).

As per claim 1, Dellevi et al. teaches a method operative in a computer network for enabling entities to trade work schedules, comprising:

having a first entity post for display and trading a first work schedule, the first work schedule having associated therewith a second work schedule as defined by the first entity that the first entity is willing to accept in trade for the first work schedule (See column 6, lines 4-22 and line 52-column 7, line 6, wherein a first entity posts a first work schedule (a shift representing a whole or portion of a day) and what the user wants to trade for); and

enabling a second entity to accept the first entity's first work schedule if a given condition is met (See column 6, lines 23-41 and line 52-column 7, line 6, where

Art Unit: 3623

conditions are checked, like the amount of time before the traded shift is to occur and the training data associated with the worker and work area function).

As per claim 2, Dellevi et al. wherein the given condition is that the second entity has a first work schedule that the first entity has indicated a willingness to accept in trade (See column 6, lines 4-22 and line 52-column 7, line 6, wherein the entities swap complimentary shifts).

As per claim 3, Dellevi et al. teaches wherein the given condition is that the first and second entities are permitted to trade work schedules (See column 6, lines 23-41 and line 52-column 7, line 6, where conditions are checked, like the amount of time before the traded shift is to occur and the training data associated with the worker and work area function).

As per claim 6, Dellevi et al. teaches wherein the given condition is that the first and second entities share a given skill (See column 6, lines 23-41 and line 52-column 7, line 6, where conditions are checked, like the training data associated with the worker and work area function).

As per claim 8, Dellevi et al. teaches wherein the given condition is that the given work schedule being traded satisfies a given time constraint (See column 6, lines 23-41 and line 52-column 7, line 6, where conditions are checked, like the amount of time before the traded shift is to occur).

As per claim 9, Dellevi et al. teaches wherein the given condition is that a notice requirement for permitting a schedule trade to occur has been respected (See column 6, lines 40-51. See column 6, lines 23-41 and line 52-column 7, line 6, where conditions are

Art Unit: 3623

checked, like the amount of time the trade is notified to the system before the traded shift is to occur).

As per claim 11, Dellivi et al. teaches apparatus for use in conjunction with a database of agent work schedule information (See column 5, lines 10-30), comprising:

a processor (See column 5, lines 10-30); and

code executable by the processor for generating a display from which an agent entity may view work schedules available for trade, at least one of the work schedules posted on the display having associated therewith an alternative work schedule that a posting entity is willing to accept in trade for the work schedule (See column 6, lines 4-22 and line 52-column 7, line 6, wherein a first entity posts a first work schedule (a shift representing a whole or portion of a day) and what the user wants to trade for).

As per claim 12, Dellevi et al. discloses code executable by the processor and being responsive to a given selection for generating a display illustrating details of at least the work schedule or the associated work schedule (See column 6, line 52-column 7, line 6, wherein status information is shown).

As per claim 13, Dellevi et al. discloses code executable by the processor and being responsive to a given selection for generating a display from which a given entity can confirm a set of one or more work schedule trades (See column 6, line 52-column 7, line 6, wherein a user can confirm the status of a trade).

Art Unit: 3623

4. Claims 10 and 14-17 are rejected under 35 U.S.C. 102(a) as being anticipated by O'Brien (U.S. 6,587,831).

As per claim 10, O'Brien teaches apparatus for use in conjunction with a database of agent work schedule information (See figures 1 and 3, column 3, lines 23-37), comprising:

a processor (See column 3, lines 23-37, column 4, lines 45-65);
code executable by the processor for generating a display from which a supervising entity manages how a set of agents can trade work schedules (See column 4, lines 64-67, column 6, lines 44-51, column 8, line 53-column 9, line 5, where the manager manages trades); and

code executable by the processor and responsive to a selection in the display for enabling enforcement of at least one rule selected from a set of rules that allow work schedules to be traded: (a) if first approved by the supervising entity (See column 4, lines 64-67, column 6, lines 44-51, column 8, line 53-column 9, line 5, where the manager manages and approves trades).

As per claim 14, O'Brien teaches an apparatus for use in conjunction with a database of agent work schedule information (See figures 1 and 3, column 3, lines 23-37), comprising:

a processor (See column 3, lines 23-37, column 4, lines 45-65);
code executable by the processor for generating a first display from which a supervising entity can define at least one policy by which a set of agents can trade work schedules (See column 3, line 64-column 4, line 10 and lines 30-40);

Art Unit: 3623

code executable by the processor for generating a second display from which the supervising entity can select whether a given identifiable agent is permitted to trade a work schedule (See column 7, lines 3-10, column 8, lines 53-column 9, line 5, wherein the manager permits the user to trade); and

code executable by the processor for generating a third display from which the supervising entity can approve or deny a given work schedule trade (See column 7, lines 3-10, column 8, lines 53-column 9, line 5, wherein the manager approves the trade).

As per claim 15, O'Brien teaches a method operative in a computer network for enabling participating entities to trade work schedules, comprising:

having a first entity post for display and trading a first work schedule (See column 1, lines 45-55, column 4, lines 64-67, column 7, lines 3-10, column 8, line 53-column 9, line 5, where an employee requests a shift swap);

having a second entity notify the first entity that the second entity desires to exchange a second work schedule for the first work schedule (See column 1, lines 45-55, column 4, lines 64-67, column 7, lines 3-10, column 8, line 53-column 9, line 5, where an employee enters a corresponding swap request); and

enabling the first and second entities to exchange online the first and second work schedules (See figure 1, column 7, lines 3-10, column 8, line 53-column 9, line 5);

wherein one or more steps are performed using one or more processing devices (See figure 1, column 3, lines 5-20).

As per claim 16, O'Brien teaches the step of determining whether the first work schedule satisfies a given criteria established by the second entity (See column 1, lines

Art Unit: 3623

45-55, column 4, lines 64-67, column 7, lines 3-10, column 8, line 53-column 9, line 5, where an employee enters a corresponding swap request).

As per claim 17, O'Brien teaches the step of notifying the second entity that the first entity has posted the first work schedule for display and trading (See column 1, lines 45-55, column 4, lines 64-67, column 7, lines 3-10, column 8, line 53-column 9, line 5, where an employee requests a shift swap via the system).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dellevi et al. (U.S. 6,695,188) in view of O'Brien (U.S. 6,587,831).

As per claim 4, Dellevi et al. does not expressly disclose and O'Brien teaches wherein the given condition is that a supervising entity has selected to approve a work schedule trade between the first and second entities (See column 7, lines 3-10, column 8, lines 53-column 9, line 5, wherein the manager approves the trade).

Both Dellevi et al. and O'Brien are directed to computer based systems for employee schedule management, where the employees are able to swap and trade shifts via the system. It would have been obvious to one of ordinary skill in the art at the time of the invention to include a supervisory function, where a manager approves shift trades,

Art Unit: 3623

before shifts are allowed to be swapped in order to increase the effectiveness of the schedule by allowing the supervisor to oversee changes.

As per claim 7, Dellevi et al. does not expressly disclose and O'Brien discloses wherein the given condition is that a given work schedule being traded does not exceed a given number of time units per a given time period (See column 3, line 64-column 4, line 10 and lines 30-40).

Both Dellevi et al. and O'Brien are directed to computer based systems for employee schedule management, where the employees are able to swap and trade shifts via the system. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the conditions of O'Brien in the conditions of Dellevi et al. that must be met when shifts are swapped in order to more accurately comply with relevant labor laws and business rules.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dellevi et al. (U.S. 6,695,188).

As per claim 5, Dellevi et al. teaches wherein the given condition is that the first and second entities share a given skill (designated by a work area function) (See column 6, lines 23-41 and line 52-column 7, line 6, where conditions are checked, like the training data associated with the worker and work area function). However, while Dellevi et al. discloses work area functions, Dellevi et al. does not expressly disclose that the first and second entities are members of a given workgroup.

Dellevi et al. is directed to computer based systems for employee schedule management, where the employees are able to swap and trade shifts via the system.

Art Unit: 3623

Dellevi et al. discloses that two employees may only swap shifts if they have the training data required for the other shift, the training data related to the work area function.

Examiner takes official notice that work groups are old and well known and that employees in a work group would have substantially the same skills. It would have been obvious to one of ordinary skill in the art at the time of the invention to include a the condition that the two workers are in the same workgroup in order to more accurately ensure that the shift recipient matches the area associated with the shift of the owner, and vice verse (See column 6, lines 25-35).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jacobs et al. (U.S. 2001/0037229) teaches swapping reservations or shifts.

Andre et al. (U.S. 6,278,978) teaches swapping shifts and shift patterns in employee management.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BETH VAN DOREN whose telephone number is (571)272-6737. The examiner can normally be reached on M-F, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BVD/

March 18, 2008

/Beth Van Doren/

Primary Examiner, Art Unit 3623